

Remarks

Claims 1 and 25-27 are amended herein; as a result, the pending claims are claims 1-29. Claims 1 and 25-27 are amended to clarify the claims. The amendments to claims 1 and 25-27 are supported, e.g., by the corresponding originally filed claims. The amendments to claims 1 and 25-27 do not narrow the claims. Accordingly, applicant is entitled to a full scope of claim equivalents upon allowance of the presently pending claims.

In the Restriction Requirement mailed January 15, 2003, the Examiner requested election between the following groups of claims.

- I. Claims 1-24, drawn to a method of detecting microorganisms, classified in class 435, subclass 6.
- II. Claims 25-27, drawn to a kit for the polynucleotide detection of microorganisms, classified in class 435, subclass 6.

Applicant provisionally elects with traverse the invention of Group I, claims 1-24.

The Restriction Requirement is traversed on the basis of a lack of a serious burden to search and examine the entire application. In order to substantiate a proper Restriction Requirement, the Examiner must establish (1) that two or more independent and distinct inventions are claimed in one application, and (2) that examining all claimed inventions in a single application would constitute a serious burden. 35 U.S.C. § 121, 37 C.F.R. § 1.141, M.P.E.P. § 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even if it arguably includes claims to distinct or independent inventions. M.P.E.P. § 803.

As the Examiner indicated, the inventions of Groups I and II are related as products and process of use. Due to the relatedness of the subject matter of the claims in Groups I and II, Applicant respectfully submits that the claims in Groups I and II can be efficiently and effectively searched and examined in a single application with no serious additional burden placed on the Examiner. Moreover, it is submitted that Applicants should not be required to incur the additional costs associated with the filing of divisional applications in order to obtain protection for the claimed subject matter. Thus, reconsideration and withdrawal of the Restriction Requirement is respectfully requested.

If there are any questions concerning this application, the Examiner is invited to telephone Applicant's undersigned attorney at (612-371-2111).

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on _____, 2003.

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